

# Notice of Allowability

Application No.

10/674,955

Examiner

ALEX NOGUEROLA

Applicant(s)

REID ET AL.

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment of 8/27/2007.
2. ☒ The allowed claim(s) is/are 1-3, 5-10, 12-14 and 17-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                                |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|  | 9. <input type="checkbox"/> Other _____  |

Alex Noguerola  
Primary Examiner  
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**DETAILED ACTION**

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mara DeBoe on October 24, 2007.

The application has been amended as follows:

- a) Claim 1, line 12: "a passage" has been replaced with -- a substantially uniform passage --;
- b) Claim 1, line 12: "first side" has been replaced with -- first outer side --;
- c) Claim 1, line 12: "second side" has been replaced with -- second outer side --;
- d) Claim 1, line 13: "first side" has been replaced with -- first outer side --;
- e) Claim 12: "claim 11," has been replaced with -- claim 1, --;

f) Claim 13: "claim 11," has been replaced with -- claim 1, --; and

g) Claim 14: "claim 11," has been replaced with -- claim 1, --.

***Allowable Subject Matter***

2. Claims 1-3, 5-10, 12-14, and 17-22 are allowed.

3. The following is an examiner's statement of reasons for allowance:

a) Independent Claim 1 now requires "a substantially uniform passage extending from a first outer side of the electrochemical cell to a second outer side of the electrochemical cell opposite the first outer side." This limitation is supported in the specification by page 06, line 32 – page 07, line 01; page 13, lines 28-30; page 23, lines 04-06; and by Figures 1, 2, 4, 5, and 8. Such a passage will provide an opening for sample to be introduced into the electrochemical cell and "... a vent to enable the passage to be filled with liquid easily." See in the specification page 16, lines 09-15.

In Hyland the passage extends from a first outer side of the electrochemical cell to the inner side of the electrochemical cell opposite the first outer side. See Figures 2,

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3, and 7. It would not have been obvious to have the passage continue through to a second outer side of the electrochemical cell because the inner surface of the insulating substrate (bottom layer of the electrochemical cell) is covered with conducting layer that forms a counter electrode (6) and that supports electroactive substance (8). "In a preferred embodiment of the invention, the electro-active substance is pre-coated onto the substrate which forms the base of the receptacle. This may be done either by directly coating the electro-active substance onto a flat substrate, or forming a well in the substrate and dispensing an electro-active substance into the well." See in Hyland page 10, line 28 – page 11, line 02 and Figures 2, 3, and 7. Although Hyland does disclose providing a vent in the base of the electrochemical cell this vent would be in the form of one or more small air-holes typically having capillary dimensions, so the passage would not be substantially uniform from a first outer side of the electrochemical cell to a second outer side of the electrochemical cell, as shown in Applicant's Figure 2, for example.

b) Claims 2, 5-10, 12-14, and 17-22 depend directly or indirectly from allowable claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX NOGUEROLA whose telephone number is (571) 272-1343. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAM NGUYEN can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alex Noguera  
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October 24, 2007